



MERIT SYSTEMS PROTECTION BOARD FORM 185-5

WHISTLEBLOWER CLAIMS OR INDIVIDUAL RIGHT OF ACTION (IRA) APPEAL

Complete this form and attach it to MSPB Form 185-1 in either of the following situations:

- You are raising a claim—in connection with an appeal of an agency action or decision for which you have completed MSPB Form 185-2 or MSPB Form 185-3—that the agency action or decision was based on whistleblowing. See 5 U.S.C. 2302(b)(8) and 5 CFR 1209.2(b)(2).
- You are filing an Individual Right of Action (IRA) appeal authorized by the Whistleblower Protection Act (WPA) after first filing a complaint with the Office of Special Counsel (OSC) and exhausting the procedures of that office. See 5 U.S.C. 1214(a)(3), 1221, and 2302(b)(8), and 5 CFR 1209.2(b)(1).

Threatening, proposing, taking, or not taking a personnel action based on whistleblowing is one of the twelve statutory prohibited personnel practices set forth at 5 USC 2302(b). The Prohibited Personnel Practices statute, 5 U.S.C. 2302, does NOT apply to all personnel actions or to all Federal employees. Please review the definitions of “personnel action,” “covered position,” and “agency” at 5 U.S.C. 2302(a) to be sure that both you and the action or decision that you claim was based on whistleblowing are covered by those definitions before you complete and submit this form.

If this is an IRA appeal, your appeal will consist ONLY of a completed MSPB Form 185-1 and MSPB Form 185-5. (You may also attach MSPB Form 185-6 if you are requesting a stay and/or MSPB Form 185-9 if you are designating a representative.) In an IRA appeal, the Board may consider ONLY the claim that the agency action or decision was based on whistleblowing. It may not consider the merits of the agency action or decision, nor may it consider any claims other than the claim that the action or decision was based on whistleblowing.

If you are requesting that the Board stay the personnel action or decision, also complete and attach MSPB Form 185-6. See 5 CFR 1209.8 and 1209.9.

Please type or print legibly.

OMB No. 3124-0009

Please submit only the attachments requested in this form at this time. You will be afforded the opportunity to submit detailed evidence in support of your appeal later in the proceeding.

If you filed a complaint with the Office of Special Counsel (OSC) using Form OSC-11 (8/00) before filing this appeal, you may attach a copy of Part 2, Reprisal for Whistleblowing, of the OSC form together with any continuation sheet or supplement filed with OSC. This will give the Board the information requested in questions 1 through 4. Please complete the remainder of this form even if you attach Form OSC-11.

Name (last, first, middle initial)

THE WHISTLEBLOWING DISCLOSURE(S) – Answer questions 1 and 2 regardless of whether this is an IRA appeal or a claim that an appealable agency action or decision was based on whistleblowing. A whistleblowing disclosure is a disclosure of information that you reasonably believe evidences a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety. See 5 U.S.C. 2302(b)(8).

1. For each disclosure you made, provide the date of the disclosure (*month, day, year*) and summarize the disclosure below (attach additional sheets if necessary) or, if the disclosure was made in writing, attach a copy.



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2. Provide the name, title, and office address of the person to whom each disclosure described in your answer to question 1 was made. (Attach additional sheets if necessary.)

Name:

Title:

Office:

Address:

Address:

City, State, Zip code:

THE AGENCY PERSONNEL ACTION OR DECISION – Answer question 3 regardless of whether this is an IRA appeal or a claim that an appealable agency action or decision was based on whistleblowing. Answer questions 4 and 5 ONLY if this is an IRA appeal.

3. Provide a chronology of facts concerning the agency action or decision that you claim was based on whistleblowing and explain why you believe that it was based on whistleblowing.

ANSWER QUESTIONS 4 AND 5 ONLY IF YOU ARE FILING AN IRA APPEAL.

4. Identify the agency action or decision that you claim was based on whistleblowing (see 5 U.S.C. 2302(a) for covered personnel actions) and provide the date (*month, day, year*) of the action or decision. (Attach any proposal letter, decision letter, and/or SF-50 that you received in connection with this action or decision.)

Check the appropriate box below to indicate whether the action or decision was:

☐ Threatened

☐ Proposed

☐ Taken

☐ Not Taken

5. What action would you like the Board to take in this case (i.e., what remedy are you asking for)?



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FILING WITH OFFICE OF SPECIAL COUNSEL (OSC) – Answer questions 6 through 8 ONLY if you previously sought corrective action from the Office of Special Counsel (OSC) concerning the same disclosure(s) and the same agency personnel action or decision that you described in your answers to questions 1 through 4. If this is an IRA appeal, you MUST exhaust OSC procedures before you may file an appeal with the Board.

6. Attach a copy of your request to the Office of Special Counsel for corrective action and provide the date (*month, day, year*) that you filed it.

7. Provide the location of the OSC office where you filed your request.

Office Name:

Address:

Address:

City, State, Zip code:

8. Have you received written notice of your right to file this appeal from the Office of Special Counsel?

☐ Yes (*attach a copy*) ☐ No

REQUEST FOR CONSEQUENTIAL DAMAGES – Answer questions 9 and 10.

9. Are you requesting an award of consequential damages in connection with your whistleblower claim? **See 5 CFR 1201.202(b).**

☐ Yes ☐ No

If Yes, in what amount? \$

10. If your answer to question 9 is "Yes," explain why you feel that you are entitled to an award of consequential damages under the applicable statutory standard. **See 5 U.S.C. 1221(g)(1)(A)(ii) and 5 CFR 1201.202(b).**

STAY REQUEST – If you are requesting that the Board STAY the agency action or decision that is the subject of your whistleblower appeal, complete and attach MSPB Form 185-6. If you have ALREADY requested a stay from the Board in connection with this agency action or decision, answer questions 11 through 13.

11. Attach a copy of your stay request and provide the date (*month, day, year*) that you filed it.

12. Provide the location of the MSPB office where you filed your request.

Office Name:

Address:

Address:

City, State, Zip code:

13. Has there been a decision on your stay request?

☐ Yes (*attach a copy*) ☐ No